

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JOSE MORENO,** : **CIVIL ACTION NO. 1:05-CV-0481**

:  
**Petitioner** : **(Judge Conner)**

:  
**v.** :

**DAVID O'NEIL,** :  
:

:  
**Respondent** :

**ORDER**

AND NOW, this 25th day of April, 2005, upon consideration of the report of the magistrate judge (Doc. 4), to which no objections were filed, recommending that the above-captioned case be transferred to the United States District Court for the Southern District of New York, but see 28 U.S.C. § 2254(d) (allowing for *intrastate* transfers of cases), and it appearing that petitioner is presently detained in a state corrections institution within the Middle District of Pennsylvania pending resolution of an order of deportation, see Moreno v. Sec'y Michael Chertoff, No. 05-0565 (M.D. Pa. Mar. 21, 2005), but that the petition, filed pursuant to 28 U.S.C. § 2254, challenges petitioner's custody under a sentence of probation imposed by a New York state court, and that the petition does not name a state officer having custody under that sentence, see R. GOVERNING § 2254 CASES R.2(a) ("If the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody."), it is hereby ORDERED that:

1. The petition (Doc. 1) is DISMISSED.
2. A certificate of appealability is DENIED. See 28 U.S.C. § 2253.
3. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge